

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

MICHAEL D. BUTLER, #733313

§

VS.

§

CIVIL ACTION NO. 6:09cv507

RHONDA A. BARKER, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Michael D. Butler, an inmate confined at the Beto Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983 concerning the confiscation of approximately \$25,000 of personal property, allegedly without due process. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the lawsuit should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit.

The Plaintiff complained in his objections that the Court stated that he could bring a property claim in a civil rights lawsuit in Civil Action No. 6:09cv119. That case was filed as a petition for

a writ of habeas corpus challenging the disciplinary proceeding that resulted in the loss of the property. It was noted in the Report and Recommendation in that case that a property claim may be raised in a civil rights lawsuit. *See Crespo v. Cockrell*, 61 Fed. Appx. 119 (5th Cir. 2003). He was not assured that a civil rights lawsuit would succeed. In the present case, Magistrate Judge Guthrie concluded that the Plaintiff had a possible due process claim involving his property, but he was accorded all of his due process rights. Stated differently, he was provided all of his rights as guaranteed by the Constitution. Nothing more was required. Consequently, the objections lack merit, and the lawsuit should be dismissed. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Plaintiff's civil rights complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions not previously ruled on are **DENIED**.

**So ORDERED and SIGNED this 15th day of December, 2009.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**